

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

H.-J. SU HUANG *et al.*

Application No.: 09/071,541

CPA Filed: December 18, 2000

For: METHODS TO MODULATE THE
RESISTANCE OF CELLS TO
APOPTOSIS MEDIATED BY MUTANT
EPIDERMAL GROWTH FACTOR
RECEPTORS



) Group Art Unit: 1623
)

) Examiner: Kathleen Kahler Fonda Ph.D.
)
)

PRELIMINARY AMENDMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

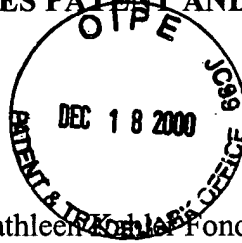
This Preliminary Amendment modifies the claims and comments on the rejections presented in the Final Office Action dated February 17, 2000 (Paper No. 8) and is filed together with Applicants' CPA request. A Notice of Appeal and Petition for a 3-Month Extension of Time were filed on August 17, 2000. A further extension of the period for response, *i.e.*, through Monday, December 18, 2000 (under the Next Business Day Rule, MPEP § 710.05), with payment of the appropriate extension fees, is also filed herewith. Entry of the following amendments is respectfully requested to place the application in clear condition for allowance.

Applicants also wish to acknowledge with great appreciation the Examiner's helpful comments made during an interview on November 20, 2000 regarding the pending application. Applicants have considered these comments in proposing the following preliminary amendments.

CPA/1623#

PATENT
ATTORNEY DOCKET NO.: 040750-5001-01-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assistant Commissioner for Patents
BOX CPA
Washington, D.C. 20231

RECEIVED

DEC 20 2000

Prior Application: Examiner: Kathleen K. Ponda, Ph.D.
Group Art Unit: 1623

TECH CENTER 1600/2000

CONTINUED PROSECUTION APPLICATION (CPA)
REQUEST UNDER 37 C.F.R. § 1.53(d)

This is a request for filing a Continuation Application under the Continued Application procedure of 37 C.F.R. § 1.53(d) of prior application no. 09/071,541, filed May 4, 1998 entitled: METHODS TO MODULATE THE RESISTANCE OF CELLS TO APOPTOSIS MEDIATED BY MUTANT EPIDERMAL GROWTH FACTOR RECEPTORS.

1. ☒ Please change the attorney docket number to 040750-5001-01-US
2. ☒ A Preliminary Amendment is enclosed.
3. ☐ The filing fee is calculated on the basis of the claims existing in the prior application as amended at 2 above.

| CLAIMS FOR FEE CALCULATION | | | | |
|---|--------------|--------------|-----------------|--|
| | Number Filed | Number Extra | at Rate of | Basic Fee Utility \$710.00 Design \$320.00 |
| Total Claims (37 C.F.R. § 1.16(c)) | 20- 20 = | 0 | \$ 18.00 each = | + |
| Independent Claims (37 C.F.R. § 1.16(b)) | 3- 3 = | 0 | \$ 80.00 each = | + |
| Multiple dependent claim(s), if any (37 C.F.R. § 1.16(d)) | | | \$270.00 | + \$270.00 |
| SUB-TOTAL = | | | | \$980.00 |
| Reduction by 2 for filing by a small entity | | | | - \$490.00 |
| TOTAL FILING FEE = | | | | \$490.00 |

12/20/2000 SLUANG1 00000160 500310 09071541

01 FC:231 355.00 CH
 02 FC:204 135.00 CH
 03 FC:216 195.00 CH

1-WA/1530337.1

00 FC:

4. ☒ Small entity status is claimed and
 ☐ a statement claiming small entity status is enclosed, or
 ☒ a small entity statement was filed in the prior nonprovisional application and is still proper and desired.

5. Extension of Time

- ☒ A Notice of Appeal was filed on August 17, 2000, with the appropriate extension of time fees.

- ☒ Applicants petition for an extension of time in the present application, the fees for which are set out in 37 C.F.R. § 1.17(a)-(d), for the total number of months checked below:

| <u>Total Months</u> <u>Requested</u> | <u>Fee for</u> <u>Extension</u> | <u>[Fee for Small</u> <u>Entity]</u> |
|---|------------------------------------|---|
| <input type="checkbox"/> one month | \$ 110.00 | \$ 55.00 |
| <input checked="" type="checkbox"/> two months | \$ 390.00 | \$195.00 |
| <input type="checkbox"/> three months | \$ 890.00 | \$445.00 |
| <input type="checkbox"/> four months | \$1,390.00 | \$695.00 |
| <input type="checkbox"/> five months | \$1,890.00 | \$945.00 |

- ☐ An extension for __ month has already been secured and the fee paid therefor of \$___ is deducted from the total fee due for the total months of extension now requested.

6. Fee Payment

- ☐ Not Enclosed. This application is being filed under the provisions of 37 C.F.R. § 1.53(f). Applicants await notification from the Patent and Trademark Office of the time set for filing the Declaration and paying the filing fees.

- ☐ Enclosed. A check in the amount of \$___ to cover the Continued Prosecution Application (CPA) filing fee of \$___ and multiple dependent claim fee of \$___.

- ☒ The Commissioner is authorized to charge \$685.00 (\$355.00 for the filing fee, \$135.00 for multiple dependent claims and \$195.00 for a two-month extension of time) to Deposit Account No. 50-0310.

7. Inventorship

☐ This application is filed by fewer than all the inventors named in the prior application under 37 C.F.R. § 1.53(d)(4).

☐ DELETE the following inventors named in the prior application: _____

☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.

8. ☒ Please address all correspondence to Morgan, Lewis & Bockius
LLP at
Customer Number: 009629

9. ☐ Recognize as associate attorney _____
(name, address, and registration no.)

10. ☒ EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

11. Additional papers enclosed:

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: 

Thomas F. Poché
Reg. No. 45,017

Dated: December 18, 2000
MORGAN, LEWIS & BOCKIUS LLP
1800 M Street, N.W.
Washington, D.C. 20036-5869
202-467-7000
Customer No. 009629